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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

LEONID P. KRIVOLENKOV,

Case No. 3:25-cv-00702-AR

Plaintiff,

v.

DEFENDANTS' RESPONSE
TO PLAINTIFF'S MOTION
TO DISMISS

ROXSEE HUFF, JAMES
CUTHBERTSON, DAVID RAMBIN, and
WASHINGTON COUNTY OREGON,

(ORAL ARGUMENT NOT
REQUESTED)

Defendants.

LR 6.1 CERTIFICATION

Plaintiff *Pro Se* contacted defendants' counsel to discuss the motion; however, the issue could not be resolved.

RESPONSE

Defendants file the following response to Plaintiff's Motion to Dismiss Defendants' Counterclaim (ECF 15), for attorney fees, asserted under 42 U.S.C. § 1988. Plaintiff moves to dismiss the counterclaim claiming that (1) the counterclaim is not the appropriate mechanism to request an award for attorney fees and (2) Defendants are

not yet the prevailing party, and therefore not entitled to attorney fees at this stage. See Plaintiff's Motion to Dismiss ECF 15, pp. 1-2.

For pleadings, Federal Rule of Civil Procedure 8(a)(2) requires only "a short and plain statement of the claim showing that the pleader is entitled to relief." Because federal rules are based on notice pleading, "[s]pecific facts are not necessary; the statement need only 'give the defendant fair notice of what the ... claim is and the grounds upon which it rests.' " *Erickson v. Pardus*, 551 U.S. 89, 93, 127 S. Ct. 2197, 167 L.Ed.2d 1081 (2007) (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007) (additional citations omitted)). Those minimal requirements also apply to any answer. See Fed. R. Civ. Pro. 7(a)(2) (noting that an answer is also a pleading).

Here, Defendants alleges entitlement to attorney fees. That counterclaim is fair notice to Plaintiff that Defendants will seek those fees and costs and the grounds upon which that assertion is made. As stated above, such notice satisfies Fed. R. Civ. Proc. 8(a)(2). Therefore, Defendants respectfully request the Court deny Plaintiff's Motion to Dismiss.

DATED: July 28, 2025.

s/Kimberly A. Stuart
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